Writ Petition No. 831 (M/S) of 2003

Mohammad Iqram ---------- Petitioner

Versus

State of Uttaranchal and others ---- Respondents

Hon'ble M.M. Ghildiyal J.

Heard Sri C.K. Sharma learned counsel for the petitioner and learned Standing counsel.

A suit was filed by the respondents for recovery of certain amount which was partially decreed by the learned Civil Judge (Senior Division), Rorkee for a sum Rs. 30,000.00 against which the petitioner filed appeal before the District Judge. On 5.3.2003 the Additional District Judge grated stay in favour of the petitioner. On 22,.8,.2003 the case was fixed for arguments. However, the petitioner moved an application for adjournment. The said application was allowed by the Additional District Judge fixing 2.9.2003 subject to the condition that compliance of Order 41 Rule 1(3) C. P.C. shall be made. It is a money decree suit. It appears that after obtaining stay order the petitioner did not choose to appear for arguments. The learned appellate court has rightly directed the petitioner to deposit the amount This is a money decree and in view of the above provisions of law it cannot be stayed without compliance of the above provisions.

I find no merit s in the writ petition and the writ petition is dismissed.

(M.M.Ghildiyal, J.)

September 02, 2003
MPS